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NO._____

_____TERM, 1972

IN THE

SUPREME COURT OF THE UNITED STATES

DR. JOHN F. COOPER, PETITIONER,

vs.

THE FLORIDA STATE BOARD OF DENTISTRY,

RESPONDENT

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

TO THE HONORABLE SUPREME COURT OF THE UNITED STATES:

Comes now Dr. John F. Cooper, petitioner in the above-styled cause, and files this, his petition for a writ of certiorari to the Supreme Court of Florida, and in support thereof respectfully submits the following:

OFFICIAL REPORT

1. The denial by the District Court of Appeal of Florida, Third District, of the petition for a writ of certiorari to the Florida State Board of Dentistry on July 5, 1972, and the rehearing denial of August 1, 1972, are noted in 265 Southern Reporter Second 432.

The denial of the petition for a writ of certiorari to the District Court of Appeal of Florida, Third District, and the dismissal of the appeal therefrom by the Supreme Court of Florida are not officially reported at the time of the writing of this petition.

Copies of all administrative orders and court orders involved in this case are offered in the appendix presented separately to this petition.

GROUNDS

2. (a) The license to practice dentistry of petitioner, as well as any renewals thereof, have been revoked permanently by the Florida State Board of Dentistry under authority of the Florida Statutes

Annotated, 1971, Chapter 466, section 466.24 while this statutory section is vague, indefinite and standardless so as to fail to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by said statute, and requires men necessarily to guess as to its meaning and application, thereby illegally posing a clear, imminent, irreparable and great damage to Dr. Cooper in the loss of his means to a livelihood. For this denial of due process the said statutory section is repugnant to the Constitution of the United States.

In this certain statutory section, the psychiatric disorder is ranked along with other disease deemed dangerous to the public health without delineation.

(b) This certain statutory section also punishes the dentist who becomes mentally ill, (afflicted with psychiatric disorder), or becomes a drug addict.

(c) This certain statutory section treats unequally any dentist who happens to become afflicted

with a psychiatric disorder among the ranks of all dentists similarly situated, while providing no suspension or revocation for the dentist who becomes afflicted with a physical disorder. This unequal protection of the said section is unconstitutional.

(d) The accusation and the order determining Dr. Cooper guilty of certain conduct both rely on an inability of petitioner to manage "his personal and business affairs." While the Florida State Board of Dentistry is carrying out a legitimate police power function under authority of section 466.24, the overbreadth of the section is unconstitutional when it invades petitioner's right to privacy.

(e) Petitioner was denied due process when he was required to go to the defense of his dental license without a meaningful opportunity to prepare a defense to the accusation.

(f) The hearing before the Florida State Board of Dentistry lacked the required appearance of justice when the attorney for the Board held the

official inconsistent positions of prosecuting petitioner on the accusation and advising the Board of laymen on matters of law during the hearing of the matter.

(g) The Florida State Board of Dentistry failed to strictly construe this penal statute as is required where the entire accusation is drafted in the past tense while the proscribed conduct in the statutory section specifies "is".

(h) Both the accusation and the determination of guilt by the Board were non-specific, open-ended and without limitation where the charges were recited "...but not limited thereto."

(i) The date of the judgment sought to be reviewed is Tuesday, October 3, 1972, and the time of its entry is not noted in said court.

(j) No rehearing was sought in the Supreme Court of Florida, but on Monday, October 30, 1972, a stay of execution was granted allowing petitioner to and including December 4, 1972, to seek review in the Supreme Court of the United States and

obtain any further stay.

(k) The jurisdiction of this Court to review this case by certiorari rests upon United States Code Annotated, Title 28, section 1257 (3).

FEDERAL QUESTIONS

3. (a) FIRST FEDERAL QUESTION:

Is a state statute, which is penal in nature dealing with the revocation of a dentist's license, repugnant to the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States if said statute:

(1) Is so vague, indefinite and standardless as to fail to give men of common intelligence fair notice of what it forbids?

(2) Further, causes men to necessarily guess at its meaning and differ as to its application?

(b) SECOND FEDERAL QUESTION:

Is a state statute which is used in performing a valid governmental function unconstitutional for being repugnant to the right to privacy

provision of the Fourth Amendment to the Constitution of the United States if said statute:

(1) By its overbreadth allows an examination of all of the banking records and business practices of a dentist without his consent?

(2) By its overbreadth allows an examination on which to base the conclusion a dentist lacks the ability to manage "his personal and business affairs"?

(3) By permitting such invasions allows an unreasonable search within the meaning of said Amendment?

(c) THIRD FEDERAL QUESTION: Is a state statute repugnant to the Constitution of the United States for denying a right under the Equal Protection Clause of the Fourteenth Amendment if it provides:

(1) A dentist who becomes afflicted with a mental illness (afflicted with a psychiatric disorder) among other dentists similarly situated may have his dental license suspended or revoked while a dentist with a physical disorder is not

penalized?

(2) A dentist who becomes a drug addict among other dentists similarly situated may also be so punished.

(d) FOURTH FEDERAL QUESTION: Is a denial of the right to the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States for an administrative board hearing an accusation of misconduct charged against a dentist to:

(1) Require the accused dentist to defend his professional license within seventeen days after said dentist was able to retain counsel, where the attempt to retain counsel was limited due to financial reasons?

(2) Require the accused to defend within seventeen days after retaining counsel when the attorney retained asked for a bill of particulars and a continuance, under the circumstances, and both requests were denied?

(3) Allow an attorney only seventeen days to prepare a meaningful defense in such a

case where he needs to find applicable law, locate and interview available witnesses during what was mostly a holiday season, take required depositions, cause the necessary subpoenas to be issued in Jacksonville, Florida, and returned to Miami, Florida, where service on said witnesses was required in Miami, Dade County, Florida, and Sanford, Seminole County, Florida?

(4) Provide the accused dentist with an accusation that recited certain charges of alleged misconduct but specifically state at several places in the accusation "...but not limited thereto"?

(5) Provide the accused dentist with an accusation drafted only in the past tense based upon a statutory provision proscribing conduct of which the accused "is" guilty?

(6) Provide the accused dentist with a determination of fact containing a conclusion of guilt based upon certain allegations stated but followed by "...but not limited thereto"?

(7) Allow the attorney who acted as the prosecutor of the accused dentist in the hearing of the matter on behalf of the board also to advise the board, all of whom were laymen, on questions of law that arose during the hearing?

(8) Revoke the license of a dentist permanently for conduct done before the dentist had been hospitalized and had received three months of psychiatric rehabilitative treatment, and had been returned to the practice of dentistry by the attending psychiatrist?

STATUTE AND PROVISIONS

4. '466.24 Suspension or revocation of license certificate for cause.--The board shall suspend or revoke the license of any dentist or dental hygienist when it is established to its satisfaction that he:

(1) Is a habitual user of intoxicants, or drugs or is afflicted with physical disability, senility, psychiatric disorders or other disease

deemed dangerous to the public health, thus rendering him unfit for the practice of dentistry or dental hygiene.

(2) Is grossly ignorant or incompetent.

(3) Has been guilty of:

(a) Misconduct either in his business or in his personal affairs which would bring discredit upon the dental profession;

(b) Fraud, deceit or misrepresentation in obtaining his license;

(c) Malpractice;

(d) Wilful negligence in the practice of dentistry or dental hygiene;

(e) Employing or permitting any unlicensed person or persons to perform any work in his office, which would constitute the practice of dentistry or dental hygiene;

(f) Publication or circulation, directly or indirectly of any fraudulent, false or misleading statements as to the skill or methods of

practice of any person;

(g) Advertising in any manner his professional services in the practice of dentistry or the cost or fees therefor in this state in a manner not expressly authorized by this chapter; claiming or inferring of professional superiority over other practitioners;

(h) Employing or using a solicitor or other agent to obtain patronage;

(i) Giving a public demonstration of skill or methods;

(j) Practicing dentistry along the streets or highways or any place other than the office where the licensee regularly practices dentistry except as provided by this chapter;

(k) The public exhibition or use of specimens of dental work, large display signs or lighted signs, electric or neon or any other media of calling the attention of the public to any person engaged in the practice of dentistry or dental hygiene;

(l) Failure to provide and maintain reasonably sanitary facilities and conditions;

(m) Failure to provide adequate radiation safeguards; or,

(n) Violating any other provision of this chapter regulating the practice of dentistry or dental hygiene."

This statutory section is to be found in the Official Florida Statutes, 1971, Volume Two, at pages 399 and 400.

CONSTITUTION OF THE UNITED STATES OF AMERICA

AMENDMENT 4

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

AMENDMENT 5

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

AMENDMENT 14

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens

of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

FACTS

5. Petitioner's license to practice dentistry, as well as any renewals thereof, have been revoked permanently by an order of the Florida State Board of Dentistry under authority of the Florida Statutes Annotated, 1971, Chapter 466, section 466.24, while this statutory section is so vague, indefinite and standardless as to fail to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by this penal statute requiring men necessarily to guess at its meaning and application, thereby illegally posing a clear, imminent, irreparable and great loss to Dr. Cooper in the loss of his means to a livelihood.

Petitioner Cooper entered the Veteran's Administration Hospital in Miami, Florida, on July 14, 1971, and was discharged on October 4, 1971.

His treating psychiatrist, Dr. James Goodman, kept Dr. Cooper in the classical psychiatric ward until August 29, 1971, when Dr. Cooper was allowed to enter the Human Relations Laboratory for exchanges with other patients and further treatment there until he was discharged as able to return to work. When queried on the hearing of this matter as to the cause of his hospitalization being drug addiction or alcoholism, or both, Dr. Cooper stated the cause was more complex than that. His uncontradicted testimony was that he was emotionally ill. On his release petitioner returned to work as a dentist with the Seminole County Health Department at Sanford, Florida, where he yet works.

Charges were filed against petitioner with the Secretary-treasurer of the Florida State Board of Dentistry on December 10, 1971.

All of the charges made were based on conduct prior to the hospitalization of petitioner. Charges began with conduct on August 22, 1963, and ended with conduct shortly before petitioner's

hospitalization on July 14, 1971. No charges of misconduct were made for any conduct of petitioner after his release from the psychiatric ward of the hospital.

The accusation made against Dr. Cooper was open-ended.

"The above described acts, all of which violate Chapter 466 of the Florida Statutes are in violation of Section 466.24 (1), (3) (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto."

The accusation made against Dr. Cooper included charges of misuse of his "personal and business affairs" and abuse of checking accounts and writing of "bad checks" on old checking accounts.

These charges were served upon petitioner by certified mail on the 13th day of December, 1971. He then began his search for an attorney to aid him in his defense, but, due to his limited financial resources, he was unable to retain counsel until December 28, 1971, and the "Notice of Hearing" set

the date of hearing on January 14, 1972.

This allowed petitioner's counsel a period of only seventeen days in which to investigate the charges, make discovery of the evidence against petitioner held by the Florida State Board of Dentistry, find applicable law, locate available witnesses, take required depositions, cause the necessary subpoenas to be issued in Jacksonville, Florida, and to be returned to Miami, Florida, for service in Miami, Florida, and in Sanford, Seminole County, Florida. This seventeen day period was during a holiday season when many people were unavailable due to being out of town or busy with seasonal commitments.

Petitioner's motions for a continuance and bill of particulars were denied by the respondent.

A hearing was held. One the hearing of this matter, Mr. Randle, the attorney who had advised the Florida State Board of Dentistry they had good legal cause to prosecute Dr. Cooper, advised the

Board on matters of law. Mr. Randle also presented the case against Dr. Cooper as the attorney for the Board.

The Board, in addition to ruling on legal questions as they arose throughout the hearing, made the finding of guilty.

The determination of fact finding Dr. Cooper guilty was written, however, in the same open-ended fashion as the accusation.

"4. The above described acts, all of which violate Chapter 466 of the Florida Statutes, are in violation of Section 466.24 (1), (3), (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto."

Also the Board concluded petitioner was unable to manage his "personal and business affairs".

FEDERAL QUESTIONS RAISED

6. The stay granted by the Supreme Court of Florida on Monday, October 30, 1972, halted all

proceedings in said court as well as proceedings in the District Court of Appeal, Third District, and the Circuit Court for the Eleventh Judicial Circuit of Florida in and for Dade County to and including December 4, 1972, to allow petitioner to seek review in the Supreme Court of the United States and obtain any further stay.

The first federal question raised dealing with the indefinite, vague and standardless quality of Section 466.24 of the Florida Statutes was raised before the Florida State Board of Dentistry in a Motion to Dismiss where petitioner wrote:

> 'Comes now Dr. John F. Cooper in person and by his attorney, Glyn Dial Ellis, and does respectfully move the Florida Board of Dentistry to dismiss the charges against him in the 'Accusation' sworn to December 9, 1971, on the ground that the 'Accusation' is based upon Chapter 466 of the Florida Statutes which is unconstitutional due to being vague, ob-

scure, indefinite, ambiguous and written without prescribed standards which would determine the necessary degree of wrongdoing in order to sustain a finding of conduct sufficiently improper or improperly motivated so as to entitle the Board to find against Dr. Cooper and to penalize him under the Florida Statute authorizing a penalty.

"Additionally, the 'Accusation' is not drafted in the present tense so as to meet the requirement that Dr. Cooper 'is' a user as described and there are no facts stated in the 'Accusation' that sustain a finding that this is true. In other words, the 'Accusation' recites the law in this particular section but states no facts to sustain such conduct on the part of Dr. Cooper presently.

"Additionally, the Florida

Statutes, Section 466, is unconstitutional on the ground that it does not inform an ordinary man of the kind and degree of conduct that would be sufficient to sustain the finding for a penalty against such ordinary man.

"Additionally, Chapter 466 of the Florida Statutes contains no definitions of the relationships and required conditions in order to inform Dr. Cooper, or any ordinary man, of such conditions as would sustain the finding of a penalty against him under this certain chapter.

"Done at Miami, Florida, this December 31, 1971."

BOARD'S RULING ON MOTION TO DISMISS

"COMES NOW the Florida State Board of Dentistry, by and through its undersigned attorney, and for answer to

the Accused's Motion to Dismiss states said Motion is denied.

"DATED this 10th day of January, 1972.

RICHARD L. RANDLE, For and at the direction of the Florida State Board of Dentistry"

Prior to the hearing of this matter by the Florida State Board of Dentistry, petitioner sought an injunction in the Dade County Circuit Court as well as a Declaratory Judgment of his rights in the following:

"APPLICATION FOR DECLARATORY JUDGMENT

TO THE HONORABLE JUDGE OF THE DADE COUNTY CIRCUIT COURT:

"Plaintiff, Dr. John F. Cooper, presents his Application for a Declaratory Judgment seeking declaratory and injunctive relief involving the following agency and state officials:

"The Florida State Board of Dentistry; John A. Stewart, D.D.S., Secretary-Treasurer of the Florida State Board of Dentistry; Robert M. Denton, D.D.S., Executive Director and Assistant Secretary-Treasurer of the Florida State Board of Dentistry; Robert Shevin, Attorney General of the State of Florida; and Louis H. Ritter, Secretary of the Department of Professional and Occupational Regulation.

"1. Plaintiff brings this action for relief under Chapter 86, Declaratory Judgments, Florida Statutes, 1969, as amended, whereunder the plaintiff prays the Court will render declaratory judgments and supplemental relief on the existence of any immunity, privilege, right or status now existing belonging to the the plaintiff as well as a declaration of equitable and legal relations of the

parties to this controversy as they are affected by the following:

"3 (C) Plaintiff further prays the Court determine the construction and/or constitutionality in said Chapter 466 of the two Sections, 466.24 'Suspension or Revocation of License Certificate for Cause' and Section 466.25 'Filing of Accusations Against Dentists, Dental Hygienists or Dental Laboratories, Notice, Hearing, Review'.

'Plaintiff alleges the statutory sections 466.24 and 466.25 are unconstitutional and therefore void due to being vague, ambiguous and indefinite with a failure to promulgate standards of misconduct and/or conduct designed to bring discredit to the practice of dentistry and by reason of their failure to assure plaintiff equal

protection of the law and due process of law. By these sections plaintiff is denied knowing with what he is charged since a man of common intelligence must necessarily guess at their meaning and differ as to their application.

"There are no definitions extant in the Florida Statutes, or elsewhere, governing the terms used in said sections so that plaintiff is unable to determine whether the wrongdoing includes associations or beliefs or other conduct in his 'personal affairs'."

"4 (D) By the terms of the 'Accusation' plaintiff is accused of having violated section 466.24 (3) (n), Florida Statutes, 'but not limited thereto'. A statement of such violations under various sections of 466.24 'but not limited thereto' are found on pages 2, 3, 4, 5, 6, and 7 of said 'Accusation'.

"The 'Accusation' specifies violation of any other provision of Chapter 466 relating to the practice of dentistry or dental hygiene in its charge of having violated section 466.24 (3) (n).

"The 'Accusation' states Dr. Cooper 'was an alcoholic', while the law on revocation uses the verb, 'is a (sic) habitual user of intoxicants...'"

ORDER

"THIS CAUSE came on to be heard before me on Plaintiff's Application for injunction and Defendants' Motion to Dismiss, after notice and the Court having examined the pleadings and memorandum filed in said cause and having heard argument of counsel, it is thereupon,

ORDERED and ADJUDGED:

1. That said Application be and the same is hereby denied.

2. That this cause be and the same is

hereby dismissed with prejudice and at Plaintiff's cost.

DONE and ORDERED in Chambers, at Miami, Dade County, Florida, this 14th day of January, 1972."

Because of the ruling laid down in the Kionka case wherein the trial court in its final judgment or decree is required to directly pass upon the validity of a statute, or undertake to set forth a construction of the constitutional provision, no appeal was allowed to the Supreme Court of Florida from this denial. See In re Estate of Anna Z. Kionka, 121 Southern Second 644. See especially page 646.

The matter came on to be heard by the Board whose order is found in the appendix of this matter beginning at page one.

Petitioner next sought a writ of certiorari in the District Court of Appeal of Florida, Third District, where the first federal question was raised in the petition and brief as follows:

"A. The statutory section which was the basis for the revocation of the license of Dr. Cooper is unconstitutional in those specific sections which were the bases of the charges against him as well as those statutory sections being unconstitutional which were the bases of the revocation of his license.

"The acts described in the accusation allegedly violate Chapter 466 of the Florida Statutes and are presented by the Board as being in violation of 'Section 466.24 (1), (3) (a) (c) (d) (1) (n), Florida Statutes but not limited thereto'.

"The Order revoking the license of Dr. Cooper found him guilty '...of violating Chapter 466 of the Florida Statutes, and in particular Section 466.24 (1), (3) (a) (c) (d) (1) (n),

of the Florida Statutes, but not limited thereto...'.

"These certain statutory sections are vague and standardless leaving the dental profession uncertain as to the conduct they prohibit and leaves administrative boards without any legally fixed standards to guide them.

'B. Additionally, that Section 466.24 (3) (a) is violative of petitioner's constitutional right to privacy.

C. Petitioner was denied due process of law in the following instances:

(1) When he was denied a continuance which would have allowed counsel for petitioner an opportunity to prepare for the defense of this case in a reasonable time. While the

State had months to prepare its case, petitioner had at most less then twenty (20) days and, under the facts of this case, to have denied petitioner a continuance was error. Counsel for petitioner needed time for discovery, investigation, study of the applicable law and preparation of the defense. A meaningful opportunity to be heard is requisite to fairness.

"(2) The hearing in this matter did not have the appearance of justice where the attorney who acted as prosecutor was also advisor to the Board performing a quasi-judicial function in determining guilt and ruling in matters of law.

"(3) The failure of the Board to provide Dr. Cooper with a specific and definite 'Accusation', which they refused to correct when they denied

petitioner's Motion for a Bill of Particulars, was error. The granting of a list of witnesses did not correct this error.

"(4) The drafting of the 'Accusation", where it was based upon Section 466.24 (1), was error and constituted no charge against Dr. Cooper since it was drafted in the past tense and did not accuse the petitioner of being guilty of such conduct as is proscribed at the time of the 'Accusation' or as the Section specifies 'is'."

"(5) The 'Accusation' did not inform the petitioner of the charges against him since the charges made recite certain Sections of Chapter 466 but specifically state 'but not limited thereto'. This information that the 'Accusation" against Dr. Cooper is not limited to the certain sections of the

statutory charge made is repeated at least once on five of the seven pages of the 'Accusation". Under this information, petitioner had no way of knowing what he had specifically to meet and disprove.

"(6) The Order of revocation of the license of Dr. Cooper was not based upon the charges made against him nor upon the evidence submitted but as stated in Paragraph 4 of said Order, '...John F. Cooper guilty of violating Chapter 466 of the Florida Statutes, and in particular Section 466.24 (1), (3) (a) (C) (d) (1) (n), of the Florida Statutes, but not limited thereto...'."

(Underlining is mine).

"(7) The conduct of the Board in revoking the license of Dr. Cooper was arbitrary and unreasonable

under the facts of this case. Such an Order was an abuse of their discretion in view of the rehabilitative psychiatric treatment received by Dr. Cooper before any of the charges were filed against him."

In the argument of the brief filed in the District Court of Appeal beginning at page seven (7) these federal questions were pursued:

"It is difficult to understand what it is the Florida State Legislature forbids by this Chapter 466, Section 24. The law is so drafted as to mean different things to a man of common intelligence so that he must necessarily guess at the meaning of the Section; and, of course, the Florida State Board of Dentistry would be allowed to differ as to the application of the law because of the nature of the language. Flor example:

"'466.24 (1) Is a (sic)

habitual user of intoxicants or drugs.....'

'What is 'a (sic) habitual user of intoxicants'? Would it be fair to say that a man who takes a cocktail every evening before dinner is an habitual user of intoxicants? Is this disabling?

'What is an habitual user of drugs? What are drugs? Does the Florida State Legislature mean all drugs which one might use habitually or are there certain drugs with a deleterious effect which they had specifically in mind?

"'466.24 (1) ...is aflicted with physical disability, senility, psychiatric disorders...'

"If a dentist were to be afflicted with a severe case of arthritis, would that be a sufficient physical disability to allow suspension or revocation of his license?

'Webster's Third New International Dictionary defines 'senility' as 'the quality or state of being senile'. 'Senile' is defined therein as 'of, relating to or characteristic of old age'.

"'Psychiatric disorders' would include both neuroses and psychoses. Even psychiatrists would disagree as to what psychiatric disorders are, and the extent of disability flowing from each psychiatric disorder would also be the bases of professional differences of opinion.

> "'466.24 (1) ...or other disease deemed dangerous to the public health, ...'

"Is there no disease deemed dangerous to the public health that is not communicable at some stage? Is it the intention of the Legislature to suspend or revoke the licenses of dentists

who have diseases that are dangerous to the public health even when such diseases are not communicable or are not in a communicable stage?

> "'466.24 (2) Is grossly ignorant or incompetent;'

"How could a man be deemed grossly ignorant who had received a license to practice dentistry in the State of Florida?

"Is a dentist who achieves several poor results on patients over several years of time incompetent? What if he achieves several poor results in a short period of time? Is that enough to make him incompetent?

> "'466.24 (3) Has been guilty of: (a) Misconduct either in his business or in his personal affairs which would bring discredit upon the dental profession.'

"If a dentist belonged to clubs which were Communistic or anti-religious, would that be misconduct in his personal

affairs which would bring discredit upon the dental profession?

'What if a dentist actively participated in either marches for peace or civil rights? Would this be such discredit?

'What if a dentist were to file a bankruptcy petition in his business, would this be misconduct in his business which would bring discredit upon the dental profession? What if he had a reputation for not paying his bills until 120 days after they were due, thus achieving a poor credit rating? Would that be such a discredit to his profession?

"'466.24 (3) (c) Malpractice;'

'What is meant by malpractice for the purposes of this section?

"'466.24 (3) (d) Willful negligence in the practice of dentistry or dental hygiene;'

"Is a man who is mentally ill and willfully negligent in the practice of dentistry to have his license suspended or revoked, the same as a man who is not mentally ill and acts willfully negligently?

"'466.24 (3) (l) Failure to provide and maintain reasonably sanitary facilities and conditions;'

'What is 'reasonable'? Whose standard shall we apply?

"While Subsection (m) requires adequate radiation safeguards, it does not specify the purpose for such radiation safeguards in order that standards might be known, as they are generally known in the profession, or by standards promulgated in this Chapter.

> "'466.24 (3) (n) Violating any other provision of this chapter regulating the practice of dentistry or dental hygiene.'

"This Subsection could either be a repetition of other provisions of Section 24 which we have already questioned or it could be any other provision of this Chapter applicable or inapplicable to an individual dentist."

The second federal question raised below on the overbreadth of the statute allowing an invasion of petitioner's right to privacy at page 13 in the brief submitted to the District Court of Appeal:

'Misconduct in the personal affairs of an individual without a standard being set by the State Legislature is open to such abuse in sensitive areas of basic freedoms guaranteed an individual by the Bill of Rights that such statute must be unconstitutional."

The third federal question was raised in the Dade County Circuit Court and the District Court

of Appeal. This question rested on the right insured petitioner in the Equal Protection Clause of the Fourteenth Amendment.

In the brief filed with the District Court of Appeal beginning at page 13 the following argument was made:

> "In the area of the psychiatric disorders this Section 24 does not fairly treat any dentist who may become ill with a psychiatric disorder as opposed to a physical disorder. This statute still treats the psychiatric disorder as though it were a human infirmity arrived at in some fashion different to that of a physical disorder. A reading of the Section reveals that no dentist who becomes physically ill is to be suspended whereas a dentist suffering a psychiatric disorder is to be suspended. Again, no provision is made for any condition, exception, or unusual circumstances.
>
> "The medical profession has met

the same problem of the sick doctor by providing in Florida Statute 458.1201, Subsection (n) as follows:

> 'Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations against him unless the failure was due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients."

Again in the third federal question dealing with the denial of due process, petitioner argued in the Third District Court of Appeal brief at 21:

"In the instant matter on the subject of the 'appearance of justice' I respectfully submit to the Court that it was error for Mr. Randle to be the prosecuting attorney, advisor to the Board on matters of law during the trial of the matter, as well as being the attorney for the Board who advised them when they had a sufficient amount of evidence to proceed against Dr. Cooper. Again, the 'appearance of justice' was lost when the Board was the client of Mr. Randle and at the same time sat as the judge and jury ruling on matters of law and fact in the hearing of this case. No criticism is intended of the Board or Mr. Randle, but it is a difficult thing to explain to an individual who has been accused of misconduct by the Florida State Board of Dentistry how the attorney who is prosecuting him can advise the

Board that is trying him on matters of law and evidence in the trial."

"Had petitioner been granted a meaningful opportunity to be heard, it might have been that the license of Dr. Cooper would not have been revoked. A man sued for one thousand dollars would have had a greater opportunity to defend his one thousand dollars than Dr. Cooper had to defend his license, even if you assume that Dr. Cooper had thirty days in which to prepare a defense. No fair minded court would require a man to go to trial if he were sued for one thousand dollars without an opportunity to take necessary depositions and investigate the suit filed against him."

The District Court of Appeal denied the petition for writ of certiorari as well as the petition for a rehearing without initially passing

upon the validity of the state statute in question so petitioner was unable to appeal to the Supreme Court of Florida. Or, restated, he did attempt an appeal to the Supreme Court of Florida and it was dismissed. See Appendix, pages 24,25.

Petitioner also attempted to perfect an appeal by writ of certiorari on the ground that the decision in the instant case was in conflict with State v. Pattishall, 126 Southern 147, 99 Florida 296 (1930), which requires a statute which is penal in nature to be strictly construed and strictly followed. The Supreme Court of Florida denied the petition for certiorari.

ARGUMENT UNDER FIRST FEDERAL QUESTION

Does Dentist Cooper have the same right as a man accused of a crime to raise the objection of vague, indefinite and standardless where his accusation arose under a "penal" statute rather than a "criminal" statute?

This objection was raised successfully in two "criminal" matters before this Court recently. See Rabe v. Washington, 405 United States 313 (1972); and, Papachristou v. City of Jacksonville, 405 United States 156 (1972).

Yes, this Court answered in Giaccio v. Pennsylvania, 382 United States 399 (1966) at page 402:

'Whatever label can be given the 1860 Act there is no doubt that it provides the State with a procedure for depriving an acquitted defendant of his liberty and property. Both liberty and property are specifically protected by the Fourteenth Amendment against any state deprivation which does not meet the standards of due process, and this protection is not to be avoided by the simple label a State chooses to fasten upon its conduct or its statute. So here this state Act whether labeled 'penal' or not must meet the challenge that it is unconstitutionally vague."

See also Cramp v. Board of Public

Instruction, 368 United States 278 (1961); and Small Company v. American Sugar, 267 United States 233 (1925).

If one may challenge the statute on this vice, then does section 466.24 qualify as vague?

I submit this section has not the remotest suggestion of a standard, but only contains a listing of certain habits, practices, conditions, afflictions, 'or other disease deemed dangerous to the public health", and ipso facto, "thus rendering him unfit for the practice of dentistry or dental hygiene".

ARGUMENT UNDER SECOND FEDERAL QUESTION

All of the banking records and checks of Dentist Cooper were searched for over a several-years-period without his consent!

From this illegal search grew that part of the accusation "...and not being able to properly cover checks drawn on old checking accounts that had been closed and otherwise that the said Dr.

John F. Cooper would write and cash 'bad checks' and otherwise was unable to properly perform the necessary and proper business functions of his office...".

The men hearing the evidence used it to conclude petitioner was guilty when they wrote: "...and due to the inability of the said Dr. John F. Cooper to manage his personal and business affairs, it was necessary for the said Dina Leopardi to take charge of his entire finances for his said dental offices and to open bank accounts for the said Dr. John F. Cooper's dental practice in her name..." See Appendix, page 5.

The settled rule of law is that "A governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms."

See Griswold v. State of Connecticut, 381 United States 479 (1965). See especially page

485.

ARGUMENT UNDER THIRD FEDERAL QUESTION

Part (1)

Petitioner was hospitalized for three months for being mentally ill. He is now suffering the possible loss of his dental license permanently because of conduct while mentally ill.

What if petitioner had only become physically ill? This section 466.24 provides no punishment for a dentist who becomes physically ill.

How is one illness cause for different treatment to another illness? No one would suggest mental illness is anything but illness.

Under Smith v. Texas, 233 United States 630 (1913) a statute may not lay down a test whereby competent men may be excluded from earning a livelihood while other competent men may not.

Is it equal protection under the law to punish the man who becomes mentally ill while not

punishing the one who becomes physically ill?

The medical doctors of Florida are protected from this punishment of the ill by statutory provision section 458.1201 where a mental or physical examination is called for. Why are dentists not given equal protection?

ARGUMENT UNDER THIRD FEDERAL QUESTION

Part (2)

On the subject of drug addiction, this Court wrote in Robinson v. California, 370 United States 660 (1962) at page 676:

"We should show the same discernment respecting drug addiction. The addict is a sick person. He may, of course, be confined for treatment or for the protection of society. Cruel and unusual punishment results not from confinement, but from convicting the addict of a crime. The purpose of § 11721 is not to cure, but to penalize."

The purpose of section 466.24 is to suspend or revoke the license of a dentist for drug addiction. Is this to cure or to punish?

In Furman v. Georgia, 408 United States 238 (1972) this Court stated:

"A State may not punish a person for being 'mentally ill', or a leper, or ...afflicted with a venereal disease."

Again, does section 466.24 have as its purpose to protect the general welfare or to punish the dentist who offends thereunder?

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Parts (1), (2) and (3)

A meaningful opportunity to be heard means more than to be able to subpoena a group of past patients to speak in your behalf. It must include the right of counsel to have an opportunity to prepare for the trial of a serious matter before going to a hearing.

The benefit is not in having counsel, but in having counsel who is prepared.

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (4)

If a man receives an accusation containing allegations of violations under certain statutory sections "...but not limited thereto", what is he accused of having done?

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (5)

If a legislature wisely sets a present tense condition with the verb "is" in a penal statutory section, may an administrative board remove the limitation by applying the verb as being "was"?

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (6)

If a man is found guilty of violating certain sections of a statute "...but not limited

thereto," what is he guilty of having done?

ARGUMENT UNDER FOURTH FEDERAL QUESTION

Part (7)

Mr. Randle was charged with prosecuting Dr. Cooper and advising the body which determined guilt on questions of law during the trial. This is a public official occupying two practically and seriously inconsistent positions.

See Tumey v. Ohio, 273 United States 510 (1927). Especially page 534.

To perform its high function in the best way, justice must satisfy the appearance of justice.

PRAYER

Wherefore, petitioner prays that the judgment, decision and revocation of the license of Dr. John F. Cooper to practice dentistry in Florida, as well as any renewals thereof, by the Florida State Board of Dentistry on January 15, 1972

and affirmed by the District Court of Appeal, Third District in Case No. 72-294, with petition for a writ of certiorari denied by the Florida Supreme Court in Case No. 42-694 and the appeal to the Florida Supreme Court dismissed in Case No. 46-670 be set aside, vacated, and held for naught; that the petitioner's writ of certiorari be granted and the judgment, decision and revocation of said license together with the orders of denial and dismissal affirming said judgment, decision and revocation be reversed and that this Honorable Court issue said writ to the Supreme Court of Florida as prayed for herein by petitioner.

Respectfully submitted,

GLYN DIAL ELLIS
Attorney for Petitioner
1451 North Bayshore Drive
Suite 518
Miami, Florida 33132

CERTIFICATE OF SERVICE

I, Glyn Dial Ellis, the undersigned attorney for petitioner in the above-styled cause, do certify that on this 22d day of November, 1972, I mailed three copies of this petition for a writ of certiorari and appendix to Richard L. Randle, Esquire, attorney for the Florida State Board of Dentistry, to his proper address with sufficient air mail postage attached thereto.

GLYN DIAL ELLIS

NO. _____

_____TERM, 1972

IN THE

SUPREME COURT OF THE UNITED STATES

DR. JOHN F. COOPER, PETITIONER,

VS:

THE FLORIDA STATE BOARD OF DENTISTRY,

RESPONDENT

APPENDIX

APPENDIX

SUBJECT INDEX

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LAW OFFICES

ROBINSON, SLATER & RANDLE

February 15, 1972

CERTIFIED MAIL
Return Receipt Requested

Dr. John F. Cooper
Seminole County Health Department
P. O. Box 1856
Sanford, Florida 32771

Dear Dr. Cooper:

Enclosed please find a copy of the Dental Board's Determination of Fact and Order following your Hearing on January 14 and 15, 1972. Your license to practice dentistry in the State of Florida was revoked, including all renewal certificates thereof.

It will be necessary for you to mail your license to practice dentistry and any and all renewal certificates thereof to the Board's office, effective upon receipt of this letter.

You must cease and desist the practice of dentistry or of being a proprietor as defined in Chapter 466.04

and .05 of the Florida Statutes.

Very truly yours,

ROBINSON, SLATER & RANDLE

Richard L. Randle, As Attorney
for the Florida State Board of
Dentistry

RLR/ss
Enclosure
cc: Glyn Dial Ellis, Esquire
Florida State Board of Dentistry
Chief, Bureau of Dental Health, Division of
Health

BEFORE THE FLORIDA STATE BOARD
OF DENTISTRY

IN RE: DR. JOHN F. COOPER

DETERMINATION OF FACT AND ORDER

DETERMINATION OF FACT

This cause came on to be heard before the Florida State Board of Dentistry on January 14 and 15, 1972, on notice to show cause issued to Dr. John F. Cooper, before the Florida State Board of Dentistry, Dr. Hunter A. Brinker, Dr. Gustave J. Perdigon, Dr. John A. Stewart, Dr. A. Lewis Leo, Dr. William R. Dannahower, and Dr. Jack K. Whitman, Board members present. Dr. F. F. Farver was not present and did not participate. The accused, Dr. John F. Cooper, was present and represented by counsel. The accused entered a plea of guilty to paragraph 3. (k) of the said Accusation and entered a plea of not guilty to the remaining charges and paragraphs in the said Accusation. Dr. John F. Cooper did, however, state that paragraphs 1. and 2. of said Accusation did correctly identify his status with the Florida State

Board of Dentistry and his license and renewal numbers and his office locations. Said Board having heard the testimony adduced on behalf of the Board and the accused, Dr. John F. Cooper, makes the following findings of fact:

1. That Dr. John F. Cooper, a resident of Florida, is a licensed dentist to practice dentistry under the laws of the State of Florida, Chapter 466 of the Florida Statutes, license issued August 8, 1952, bearing no. 1614, renewed October 1, 1971, bearing certificate number 2711, and was at the time of the acts described below, engaged in the practice of dentistry in Greater Miami, Dade County, Florida.

2. That Dr. John F. Cooper was at the time of the acts described below occupying and practicing dentistry in his dental offices at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, and his professional address listed with the Board office is 5801 East Bird Road, Miami, Dade

County, Florida.

3. That the said Dr. John F. Cooper has violated the provisions of Chapter 466 of the Florida Statutes as follows:

(a) That the said Dr. F. Cooper (sic) at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, on or about for a period from May of 1969 to May of 1971, did have as his employee one Dian Leopardi, and due to the inability of the said Dr. John F. Cooper to manage his personal and business affairs, it was necessary for the said Dina Leopardi to take charge of his entire finances for his said dental offices and to open bank accounts for the said Dr. John F. Cooper's dental practice in her name, and the said Dr. John F. Cooper was unable to properly perform the necessary and proper business functions of his office due primarily to his habitual and excessive use of intoxicants and/or drugs, said acts being in violation of Florida Statutes Chapter 466,

and in particular Section 466.24 (3) (a) (n), Florida Statutes, but not limited thereto.

(b) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, on or about for a period from May of 1969 to May of 1971, did use drugs and pills in his dental offices such as Tuinals, Seconals and Dexedrine. That the said Dr. John F. Cooper did write prescriptions in the names of people not his patients or for whom he was performing no dental dental services and would have said prescriptions filled for his private use and would consume the said drugs. The said Dr. John F. Cooper used the name, among others (see other findings below), Dina Leopardi, and did on the following dates issue and use prescriptions for the following drugs, using the name Dina Leopardi, when the said Dr. John F. Cooper knew that he was not writing the prescriptions for Dina Leopardi and that in fact he consumed the drugs

himself:

5/21/70	Dexamyl, No. 10, 10 mg.
6/30/70	Empirin #3, No. 10
11/11/70	Dexamyl, No. 5, 5 mg.

said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (n), Florida Statutes, but not limited thereto.

(c) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, on or about for a period from May of 1969 to May of 1971, did drink intoxicating beverages at his said offices, and that from December of 1970 and from February through April of 1971 did habitually use intoxicants and drugs to the extent that he did regularly cancel out his dental schedule, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (n), Florida Statutes, but not limited thereto.

(d) That the said Dr. John F. Cooper,

at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, during a period from May of 1969 to May of 1971 and particularly during the early part of 1971 to and through April of 1971, did live at his said offices and that he did use intoxicants and/or drugs to the extent that he would become intoxicated or in a stupor and that his office personnel, to-wit: Dina Leopardi and/or Linda Vega would find him in a "completely passed out condition and being without his normal faculties, and that the floor and/or bed where he would be lying would be in a very unsanitary and filthy condition because of food, urine and other human waste products being in and about said office", said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (n), Florida Statutes, but not limited thereto.

(e) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon

Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, did use on prescriptions the name of Lois Vaughen to obtain narcotics and drugs during 1970 and the first three months of 1971, including Tuinal, and in particular, did on January 23, 1971, prepare and sign a prescription in the name of Mrs. Lois Vaughen for Tuinal and did have said prescription filled for his private use and did use said drug, well knowing that the said drug was to be used by him for his use and not for the said Lois Vaughen, and further that the siad Lois Vaughen was not a patient of the said Dr. Cooper, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (n), Florida Statutes, but not limited thereto.

(f) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, was an alcoholic during 1970 and in 1971, and that

he, because of the habitual use of intoxicants and/or drugs could not function or work in his dental offices during said period of time, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1) (3) (a) (n), Florida Statutes, but not limited thereto.

(g) That the said Dr. John F. Cooper, at his dental offices located at 2506 Ponce de Leon Boulevard, Coral Gables, Dade County, Florida and/or 5801 East Bird Road, Miami, Dade County, Florida, did use the name Patrick Robinson to obtain narcotics and drugs for himself during 1970 and the first two months of 1971, including Seconal and Tuinal, and did prepare and sign prescriptions in the name of the said Patrick Robinson and did have said prescriptions filled for his private use and did use said drugs well knowing that the said drugs were to be used by him for his use and not the said Patrick Robinson, and further that the said Patrick Robinson was not a patient of the said Dr. John F. Cooper. Said dates and drugs are as follows:

3/17/70	Seconal	12/21/70	Tuinal
4/1/70	Seconal	1/2/71	Tuinal
4/25/70	Seconal	1/8/71	Tuinal
6/9/70	Seconal	1/16/71	Tuinal
7/6/70	Tuinal	1/23/71	Doridan
10/23/70	Tuinal	1/23/71	Ananase
11/11/70	Tuinal	1/27/71	Tuinal
11/21/70	Tuinal	2/8/71	Tuinal
12/4/70	Tuinal	2/22/71	Tuinal
12/15/70	Tuinal		

said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (c) (d) (n), Florida Statutes, but not limited thereto.

(h) The said Dr. John F. Cooper, while engaged in the practice of dentistry in the State of Florida, was arrested for "disorderly person by intoxication", by the Coral Gables City Police Department on the following dates:

August 22, 1963	September 23, 1970
August 26, 1963	November 20, 1970
February 13, 1965	December 12, 1970
February 1, 1970	February 28, 1971

and had further been arrested by the City of Miami Police Department on May 5, 1963 for "Aggravated Assault (on complaint)", and further for "public drunkeness" on the following dates:

April 30, 1965	January 19, 1966

July 19, 1965
October 13, 1965
January 13, 1966
September 22, 1967
October 10, 1967

and due to driving while intoxicated had lost his drivers license, said acts being in violation of Florida Statutes Chapter 466, and in particular Section 466.24 (1), (3) (a) (n), Florida Statutes, but not limited thereto.

4. The above described acts, all of which violate Chapter 466 of the Florida Statutes, are in violation of Section 466.24 (1), (3) (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto.

Determined and adjudicated on January 15, 1972.

Dr. Gustave J. Perdigon
DR. GUSTAVE J. PERDIGON, CHAIRMAN
Signed this ____ day of January, 1972

ATTEST TO:

By: Dr. William R. Dannahower
DR. WILLIAM R. DANNAHOWER
Secretary-Treasurer of the Florida
State Board of Dentistry

BEFORE THE FLORIDA STATE BOARD OF DENTISTRY

IN RE: DR. JOHN F. COOPER

ORDER

WHEREAS, a hearing was held on January 14 and 15, 1972, by the Florida State Board of Dentistry and Dr. Hunter A. Brinker, Dr. Gustave J. Perdigon, Dr. John A. Stewart, Dr. A. Lewis Leo, Dr. William R. Dannahower, and Dr. Jack K. Whitman, Board members being present, and Dr. F. F. Farver, Board member being absent and not participating in the hearing, pursuant to law, concerning the charges contained in an accusation filed by Dr. Robert M. Denton, Executive Director and Assistant Secretary-Treasurer, Florida State Board of Dentistry, against Dr. John F. Cooper, and,

WHEREAS, the said Dr. John F. Cooper entered a plea of guilty to paragraph 3. (k) of said accusation and entered a denial to all other charges in said accusation, and

WHEREAS, subsequent to the hearing

(January 14 and 15, 1972), this Board met and made its Determination of Fact, and ,

WHEREAS, this Board, based upon the evidence submitted and pursuant to the findings of fact so determined, adjudged Dr. John F. Cooper guilty of violating Chapter 466 of the Florida Statutes, and in particular Section 466.24 (1), (3) (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto, it is hereby

ORDERED AND ADJUDGED as follows: That the license to practice dentistry in the State of Florida previously held by the said Dr. John F. Cooper, including any and all certificates of renewal thereof, be and the same are hereby revoked.

DONE AND ORDERED by the Florida State Board of Dentistry this 15th day of January, 1972.

Dr. Gustave J. Perdigon

DR. GUSTAVE J. PERDIGON, CHAIRMAN
Signed this 4 day of February, 1972

ATTEST TO:

By: Dr. William R. Dannahower
DR. WILLIAM R. DANNAHOWER,
Secretary-Treasurer of the Florida
State Board of Dentistry

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR DADE COUNTY

NO. 72-223 (Judge Thomas E. Lee, Jr.)

DR. JOHN F. COOPER,

Plaintiff,

vs.

THE FLORIDA STATE BOARD OF DENTISTRY, et al.,

Defendants.

ORDER

THIS CAUSE came on to be heard before me on Plaintiff's Application for Injunction and Defendants' Motion to Dismiss, after notice and the Court having examined the pleadings and memorandum filed in said cause and having heard argument of counsel, it is thereupon,

ORDERED AND ADJUDGED:

1. That said Application be and the same is hereby denied.

2. That this cause be and the same is hereby dismissed with prejudice and at Plaintiff's

cost.

DONE and ORDERED in Chambers, at Miami, Dade County, Florida, this 14th day of January, 1972.

Thomas E. Lee, Jr.

CIRCUIT JUDGE

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

JANUARY TERM, A.D. 1972

WEDNESDAY, JULY 5, 1972

DR. JOHN F. COOPER,	**	
Petitioner,	**	
vs.	**	CASE NO. 72-294
THE FLORIDA STATE BOARD OF DENTISTRY,	**	
	**	
Respondent.	**	

This cause having come on for hearing before the court on petition for writ of certiorari, transcript of record and briefs to review the order of the Florida State Board of Dentistry, in said cause, bearing date of February 15, 1972, and the record having been considered, it is ordered that said petition be and the same is hereby denied.

A True Copy

ATTEST:

William P. Carter

Clerk District Court of
Appeal, Third District

cc: Glyn Dial Ellis
Richard L. Randle
Fla. State Board of Dentistry

/ddh

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

JULY TERM, A.D. 1972

TUESDAY, AUGUST 1, 1972

DR. JOHN F. COOPER,	**	
Petitioner,	**	
vs.	**	CASE NO. 72-294
THE FLORIDA STATE BOARD OF DENTISTRY,	**	
	**	
Respondent.	**	

Counsel for petitioner having filed in this cause petition for rehearing, and same having been considered by the court which determined the cause, it is ordered that said petition be and it is hereby denied.

A True Copy

ATTEST:

WILLIAM P. CARTER

Clerk District Court of
Appeal, Third District

By: Louis J. Spallone
Chief Deputy Clerk

CC: Glyn Dial Ellis
Robinson, Slater & Randle

/h

(FINAL ORDER IN THE ABOVE STYLED CAUSE HAS TODAY BEEN ISSUED AND MAILED TO THE EXECUTIVE DIRECTOR OF THE FLORIDA STATE BOARD OF DENTISTRY at 4415 Beach Boulevard, Jacksonville, Florida)

IN THE SUPREME COURT OF FLORIDA

JULY TERM, A. D. 1972

TUESDAY, OCTOBER 3, 1972

DR. JOHN F. COOPER,	**	
Petitioner,	**	
vs.	**	CASE NO. 42,694
THE FLORIDA STATE BOARD OF DENTISTRY,	**	DISTRICT COURT OF APPEAL THIRD DISTRICT
Respondent.	**	
	**	
	**	

The motion to consolidate is denied.

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

ROBERTS, C.J., ERVIN, CARLTON, BOYD and DEKLE, JJ., CONCUR

CC: Hon. W. P. Carter, Clerk
Y Dr. Robert M. Denton,
Executive Director, Florida
State Board of Dentistry

Hon. Glyn Dial Ellis
Slater & Randle
(Hon. Richard L. Randle)

A True Copy

TEST:

Sid J. White
Clerk Supreme Court

By: David Lang, Jr.

DAVE LANG, JR.
Chief Deputy Clerk
Supreme Court of Florida

IN THE SUPREME COURT OF FLORIDA

JULY TERM, A. D. 1972

TUESDAY, OCTOBER 3, 1972

DR. JOHN F. COOPER,

Appellant,

vs. ** CASE NO. 42,670

THE FLORIDA STATE BOARD OF DENTISTRY, **

Appellee.

Appellee's motion to dismiss is granted and it is ordered that this appeal be and the same is hereby dismissed.

ROBERTS, C.J., ERVIN, CARLTON, BOYD and DEKLE, J.J., concur

CC: Hon. W. P. Carter, Clerk
Dr. Robert M. Denton
Executive Director,
Florida State Board of
Dentistry

Hon. Glyn Dial Ellis
Slater & Randle
(Hon. Richard L. Randle)

A True Copy

TEST:

Sid J. White
Clerk Supreme Court.

by: Dave Lang, Jr.

DAVE LANG, JR.
Chief Deputy Clerk
Supreme Court of Florida

STATE OF FLORIDA

DEPARTMENT OF

PROFESSIONAL AND OCCUPATIONAL REGULATION

DIVISION OF PROFESSIONS

BOARD OF DENTISTRY

4415 Beach Boulevard
Jacksonville, Florida
32207

October , 1972

Dr. John F. Cooper
Seminole County Health Department
P. O. Box 1356
Sanford, Florida 32771

RE: Florida State Board of Dentistry/
Dr. John F. Cooper

Dear Dr. Cooper:

Enclosed please find copy of the Board's Order, which is self-explanatory.

Your Petition and Appeal in the Supreme Court of Florida having been denied, your license to practice dentistry in the State of Florida is revoked by said enclosed Order, and you shall cease and desist practicing dentistry or being a proprietor as defined by

Chapter 466.04 and 466.05 and immediately forward to the Board your license and any and all renewals thereof.

Very truly yours,

Jack K. Whitman, D.D.S.
Secretary-Treasurer

JKW/fgw
encls.

cc: Glyn Dial Ellis, Esquire
Robert M. Denton, D.D.S.

BEFORE THE FLORIDA STATE BOARD OF DENTISTRY

IN RE: DR. JOHN F. COOPER

ORDER

WHEREAS, a hearing was held on January 14 and 15, 1972, by the Florida State Board of Dentistry and Dr. Hunter A. Brinker, Dr. Gustave J. Perdigon, Dr. John A. Stewart, Dr. A. Lewis Leo, Dr. William R. Dannahower, and Dr. Jack K. Whitman, Board members being present, and Dr. F. F. Farver, Board member being absent and not participating in the hearing, concerning the charges contained in an accusation filed by Dr. Robert M. Denton, Executive Director and Assistant Secretary-Treasurer, Florida State Board of Dentistry, against Dr. John F. Cooper, and

WHEREAS, subsequent to the hearing (January 14 and 15, 1972), this Board met and made its Determination of Fact, and

WHEREAS, this Board by decision of the Board members present based upon the evidence

submitted and pursuant to the findings of fact so determined, adjudged Dr. John F. Cooper guilty of violating Chapter 466 of the Florida Statutes, and in particular Section 466.24 (1), (3) (a) (c) (d) (1) (n), of the Florida Statutes, but not limited thereto, and

WHEREAS, Dr. John F. Cooper petitioned for Certiorari to the Third District Court of Appeal for the State of Florida in Miami, and

WHEREAS, said Court issued its Order staying the previous Order of the Board (signed February 4, 1972), and

WHEREAS, the Third District Court of Appeal of the State of Florida did deny Certiorari, and

WHEREAS, the Third District Court of Appeal of the State of Florida did deny Dr. John F. Cooper's petition for rehearing, and

WHEREAS, Dr. John F. Cooper petitioned for Certiorari to the Supreme Court of Florida, and

WHEREAS, the Supreme Court of Florida did

deny Certiorari, and

WHEREAS, Dr. John F. Cooper did appeal to the Supreme Court of Florida, and

WHEREAS, the Supreme Court of Florida did grant the Florida State Board of Dentistry's Motion to Dismiss the Appeal and the Supreme Court of Florida did thereby dismiss said Appeal, and

WHEREAS, this Board reinstates its prior Order changing appropriate dates, it is hereby

ORDERED AND ADJUDGED as follows:

That the license to practice dentistry in the State of Florida previously held by the said Dr. John F. Cooper be and the same is hereby revoked, including any and all certificates of renewal thereof, and the said Dr. John F. Cooper shall cease and desist from the practice of dentistry in the State of Florida as defined in Chapter 466.04 of the Florida Statutes, and shall cease and desist as being a proprietor as defined in Chapter 466.05 of the Florida Statutes, on November 1, 1972.

DONE AND ORDERED by the Florida State

Board of Dentistry this 19th day of October, 1972.

Gustave J. Perdigon, D.D.S.

GUSTAVE J. PERDIGON, D.D.S., Chairman

ATTEST TO:

BY: Jack K. Whitman

JACK K. WHITMAN, D.D.S.
Secretary-Treasurer of the
Florida State Board of Dentistry

IN THE SUPREME COURT OF FLORIDA

JULY TERM, A. D. 1972

MONDAY, OCTOBER 30, 1972

DR. JOHN F. COOPER,

Appellant-Petitioner,

vs.

THE FLORIDA STATE BOARD OF DENTISTRY,

Appellee-Respondent.

CASE NO. 42,670

and

CASE NO. 42,694

The motion of appellant-petitioner for stay is hereby granted and proceedings in this Court and in the District Court of Appeal, Third District, and in the Circuit Court for the Eleventh Judicial Circuit of Florida in and for Dade County, are hereby stayed to and including December 4, 1972, to allow appellant-petitioner to seek review in the Supreme Court of the United States and obtain any further stay.

A True Copy

TEST:

Sid J. White

Sid J. White
Clerk Supreme Court.

cc: Hon. Wm. P. Carter, Clerk
Hon. E.B. Leatherman, Clerk
Hon. Glyn Dial Ellis
Messrs. Slater & Randle
Dr. Robert M. Denton, Executive Director, Florida State Board of Dentistry